

Part 12  
**Integrated Least-Cost Resource  
Planning and Acquisition Act**

EXHIBIT 6  
DATE 3/23/09  
HB 641

**Part Cross-References**

Montana Major Facility Siting Act, Title 75, ch. 20.

**69-3-1201. Short title.** This part may be cited as the "Montana Integrated Least-Cost Resource Planning and Acquisition Act".

History: En. Sec. 1, Ch. 157, L. 1993.

**69-3-1202. Policy — planning.** (1) It is the policy of the state of Montana to supervise, regulate, and control public utilities. To the extent that it is consistent with the policy and in order to benefit society, the state encourages efficient utility operations, efficient use of utility services, and efficient rates. It is further the policy of the state to encourage utilities to acquire resources in a manner that will help ensure a clean, healthful, safe, and economically productive environment.

(2) The legislature finds that the commission may include in rates the costs that are associated with acquiring the resources referred to in subsection (1) and that are consistent with this policy if the resources are actually used and useful for the convenience of the public. To advance this policy, the commission may require periodic long-range plans from utilities that provide electric and natural gas service in a form and manner determined by the commission. The commission may receive comments on the plans.

(3) This part does not constrain or limit the commission's existing statutory duties or responsibilities.

History: En. Sec. 2, Ch. 157, L. 1993.

**69-3-1203. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Abandonment costs" means the costs incurred for resources acquired and abandoned pursuant to a plan.

(2) "Consumer counsel" means the consumer counsel provided for in 5-15-201.

(3) "Externalities" mean the impacts on society that are not directly borne by the producer in production and delivery activities, which due to imperfections in or the absence of markets are not accounted for in the producer's production and pricing decisions.

(4) "Plan" means an integrated least-cost resource plan submitted by a utility in accordance with this part and the rules adopted under this part.

(5) "Planning costs" means the costs of evaluating the future demand for services and of evaluating alternative methods of satisfying future demand.

(6) "Portfolio development costs" means the costs of preparing a resource in a portfolio for prompt and timely acquisition of the resource.

(7) "Public utility" means a public utility, as defined in 69-3-101, that provides electric or natural gas service. The term does not include municipal utilities.

History: En. Sec. 3, Ch. 157, L. 1993.

**69-3-1204. Integrated least-cost plan.** (1) The commission may adopt rules requiring a public utility to prepare and file a plan for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve. The rules may prescribe the content and the time for filing a plan.

(2) A plan must contain but is not limited to an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used.

(3) The commission may adopt rules providing guidelines to be used in preparing a plan and identifying the criteria to be used in determining cost-effectiveness. The criteria may include externalities associated with the acquisition of a resource by a public utility. The rules must establish the minimum filing requirements for acceptance of a plan by the commission for further review. If a plan does not meet the minimum filing requirements, it must be returned to the public utility with a list of deficiencies. A corrected plan must be submitted within the time established by the commission.

(4) A plan filed with the commission by a utility, as defined in 75-20-104, must be provided to the department of environmental quality and the consumer counsel.

History: En. Sec. 4, Ch. 157, L. 1993; amd. Sec. 173, Ch. 418, L. 1995.

**69-3-1205. Public comment.** (1) The commission shall conduct a public meeting for the purpose of receiving comment on a plan. The commission or the department of public service regulation may comment on the plan. A comment by the commission or the department may not be construed as preapproval by the commission of rate treatment for any proposed resource.

(2) The department of environmental quality:

(a) shall review a plan and comment on the need for new resources, the alternatives evaluated to meet the need, the environmental implications of the resource choices, and other related issues that it considers important. The department shall coordinate and deliver all comments from other executive branch agencies.

(b) may use a plan in the development of studies for a specific energy facility for which an application for a certificate of compliance is submitted under Title 75, chapter 20.

(3) The consumer counsel shall review and may comment on a plan.

History: En. Sec. 5, Ch. 157, L. 1993; amd. Sec. 174, Ch. 418, L. 1995; amd. Sec. 2, Ch. 217, L. 2003.

**69-3-1206. Rate treatment.** (1) The commission may include in a public utility's rates:

(a) the cost of resources acquired in accordance with a plan;

(b) the cost-effective expenditures for improving the efficiency with which the public utility provides and its customers use utility services; and

(c) the costs of complying with the planning requirements of this part, including but not limited to:

(i) planning costs;

(ii) portfolio development costs; and

(iii) all or a portion of abandonment costs.

(2) The commission shall adopt rules establishing criteria governing the extent of recovery of abandonment costs.

History: En. Sec. 6, Ch. 157, L. 1993.

### Part 13

#### Change in Customer's Telecommunications Carrier

**69-3-1301. Purpose.** The purpose of this part is to prohibit telecommunications carriers, including entities not otherwise regulated by the commission, from switching a customer's telecommunications services from one telecommunications carrier to another without the customer's consent and to prohibit charges for a product or service not requested by or provided to the customer from being placed on the customer's telephone bill.

History: En. Sec. 1, Ch. 325, L. 1997; amd. Sec. 1, Ch. 244, L. 1999; amd. Sec. 1, Ch. 249, L. 2003.

**69-3-1302. Definitions.** As used in this part, the following definitions apply:

(1) "Billing agent" means a telecommunications carrier that includes in a bill that it sends to a customer a charge for a product or service offered by a service provider.

(2) "Billing aggregator" means any entity, other than a service provider, that forwards the charge for a product or service offered by a service provider to a billing agent.

(3) "Customer" means a person who has purchased telecommunications services from a telecommunications carrier or who has been billed charges on a telephone bill for the services or products of another entity.

(4) "Electronic signature" has the meaning as provided in 30-18-102.

(5) "Local exchange company" means a telecommunications company that provides telephone lines or wireless service to members of the general public who are its customers.

(6) "Primary interexchange carrier" means the telecommunications carrier from which a customer chooses to purchase long-distance services.

(7) "Service provider" means any entity, other than the billing agent, that offers a product or service to a customer, the charge for which appears on the bill of a billing agent.

(8) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. An entity providing other products and services is considered a

## Subchapter 20

## Least Cost Planning - Electric Utilities

38.5.2001 GOAL AND POLICY (1) The goal of these integrated least cost resource planning guidelines is to encourage electric utilities to meet their customers' needs for adequate, reliable and efficient energy services at the lowest total cost while remaining financially sound. To achieve this goal utilities should plan to meet future loads through timely acquisition of an integrated set of demand- and supply-side resources. Importantly, this includes actively pursuing and acquiring all cost effective energy conservation. The cost effectiveness of all resources should be determined with respect to long-term societal costs.

(2) These guidelines represent the policy of the Montana public service commission concerning proper integrated least cost resource planning and acquisition. Electric utilities under the jurisdiction of the Montana public service commission are required to file least cost plans as outlined below.

(3) These guidelines do not change the fundamental ratemaking relationship between the utilities and the commission. Rather, they are a restatement of the commission's regulatory objective: to efficiently allocate society's resources to the provision of electricity services and ensure just and reasonable rates for consumers.

(4) The guidelines provide the utilities with policy and planning guidance. With the exception of ARM 38.5.8301, they do not specify the outcome of the planning process nor mandate particular investment decisions. Each utility's plan should be the result of that utility's unique planning process and judgment.

(5) Integrated least cost planning may demonstrate that, on the basis of overall societal costs, previously rate-based resources should be abandoned and replaced by new resources. In addition, least cost plans may show that it is in society's best interest for construction of a new resource to be abandoned in favor of some other resource option. If such situations occur, the commission will open separate proceedings in which it will determine how recovery of the undepreciated, rate-based capital costs will be accomplished.

(6) The guidelines do not shift risk; rather, they suggest ways to reduce and manage the risk of resource choices to shareholders, ratepayers and society.

(7) Existing resources should be operated, and new resources acquired, only when needed and in a manner consistent with these guidelines.

(8) Until such time as the commission determines that market failures and market barriers which may interfere with ratepayer investment in conservation have been reduced or eliminated, utility investment in conservation measures installed on the customer's side of the meter should be considered cost effective up to 115 percent of the utility's long-term avoided cost.

(9) The utility should thoroughly document the exercise of its judgment in weighing the importance of conflicting decision objectives. The utility should prepare such documentation so that it can be reasonably understood by the commission and interested parties.

**69-3-2005. Procurement — cost recovery — reporting.** (1) In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration; and

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in 18-2-401(13)(a), during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

(a) January 1, 2007, for the standard required in 69-3-2004(2);

(b) June 1, 2008, for the standard required in 69-3-2004(3);

(c) June 1, 2013, for the standard required in 69-3-2004(4); and

(d) any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over competitive electricity suppliers.

**History:** En. Sec. 5, Ch. 457, L. 2005; Sec. 69-8-1005, MCA 2005; redes. 69-3-2005 by Sec. 1, Ch. 220, L. 2007; amd. Sec. 3, Ch. 246, L. 2007.

**Compiler's Comments**

**2007 Amendment:** Chapter 246 in (5) and (6) at beginning after "utility" inserted "or competitive electricity supplier"; and inserted (7) concerning commission authority over competitive electricity suppliers. Amendment effective April 25, 2007.

**69-3-2006. Commission authority — rulemaking authority.** (1) The commission has the authority to generally implement and enforce the provisions of this part.

(2) The commission shall adopt rules before June 1, 2006, to:

(a) select a renewable energy credit tracking system to verify compliance with this part;

(b) establish a system by which renewable resources become certified as eligible renewable resources;

(c) define the process by which waivers from full compliance with this part may be granted;

(d) establish procedures under which contracts for eligible renewable resources and renewable energy credits may receive advanced approval;

(e) define the requirements governing renewable energy procurement plans and annual reports; and

(f) generally implement and enforce the provisions of this part.

**History:** En. Sec. 6, Ch. 457, L. 2005; Sec. 69-8-1006, MCA 2005; redes. 69-3-2006 by Sec. 1, Ch. 220, L. 2007.

**69-3-2007. Cost caps.** (1) A public utility that has restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the

eligible renewable resource has demonstrated through a competitive bidding process that the total cost of electricity from that eligible resource, including the associated cost of ancillary services necessary to manage the transmission grid and firm the resource, is less than or equal to bids for the equivalent quantity of power over the equivalent contract term from other electricity suppliers.

(2) A public utility that has not restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the cost per kilowatt hour of the generation from the renewable resource does not exceed by more than 15% the cost of power from any other alternate generating resource available to the public utility.

(3) A competitive electricity supplier is not obligated to take electricity from an eligible renewable resource unless the total cost of the electricity from that eligible renewable resource, including ancillary services, is less than or equal to a cost cap determined by the commission based on:

- (a) the cost of alternate power supplies available to the competitive electricity supplier; and
- (b) the cost caps applicable to other utilities under this section.

History: En. Sec. 7, Ch. 457, L. 2005; Sec. 69-8-1007, MCA 2005; redes. 69-3-2007 by Sec. 1, Ch. 220, L. 2007; amd. Sec. 4, Ch. 246, L. 2007.

**Compiler's Comments**

2007 Amendment: Chapter 246 inserted (3) concerning competitive electricity supplier taking supply from renewable resource. Amendment effective April 25, 2007.

**69-3-2008. Cooperative utility — exemption — standard.** (1) A cooperative utility is exempt from the graduated renewable energy standard established in 69-3-2004.

(2) Each governing body of a cooperative utility that has 5,000 or more customers is responsible for implementing and enforcing a renewable energy standard for that cooperative utility that recognizes the intent of the legislature to encourage new renewable energy production and rural economic development, while taking into consideration the effect of the standard on rates, reliability, and financial resources.

History: En. Sec. 8, Ch. 457, L. 2005; Sec. 69-8-1008, MCA 2005; redes. 69-3-2008 by Sec. 1, Ch. 220, L. 2007.

## CHAPTER 4 UTILITY LINES AND FACILITIES

### Part 1 — General Provisions

- 69-4-101. Use of public right-of-way for utility lines and facilities.
- 69-4-102. Underground power lines in new service areas.

### Part 2 — Construction Standards for Utility Lines and Facilities

- 69-4-201. Application of national electrical safety code.
- 69-4-202. Repealed.
- 69-4-203. Scope of law.
- 69-4-204. Regulation by local government.
- 69-4-205. Violations.
- 69-4-206 through 69-4-210 reserved.
- 69-4-211. Repealed.
- 69-4-212. Repealed.
- 69-4-213. Repealed.
- 69-4-214. Repealed.
- 69-4-215. Repealed.
- 69-4-216. Repealed.
- 69-4-217. Repealed.
- 69-4-218. Repealed.
- 69-4-219. Repealed.
- 69-4-220. Repealed.
- 69-4-221. Repealed.
- 69-4-222. Repealed.
- 69-4-223. Repealed.
- 69-4-224. Repealed.
- 69-4-225. Repealed.
- 69-4-226. Repealed.
- 69-4-227. Repealed.